

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

TEMSCO N.C., INC., Debtor-In-Possession

and

Case 12-CA-227471

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO**

DECISION AND ORDER

Statement of the Case

On April 24, 2019, Temsco N.C., Inc. (the Respondent), International Association of Machinists and Aerospace Workers, AFL-CIO (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

(a) The Respondent is a Puerto Rico corporation with an office and place of business in Carolina, Puerto Rico, where it has been engaged in the manufacture and sale of machinery and metal parts.

(b) Since about August 24, 2013, the Respondent has been a debtor-in-possession with full authority to continue its operations and to exercise all powers necessary to administer its business.

(c) During the 12-month period preceding the execution of the formal settlement stipulation, in conducting its operations, the Respondent purchased and received at its Carolina, Puerto Rico facility goods valued in excess of \$50,000 directly from points outside the Commonwealth of Puerto Rico.

(d) The Respondent is now, and has been at all material times, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The labor organization involved

The Union is, and has been at all material times, a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, Temsco N.C., Inc., Carolina, Puerto Rico, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing or refusing to bargain collectively in good faith with International Association of Machinists and Aerospace Workers, AFL-CIO (the Union) as the exclusive collective-bargaining representative of its employees in the below-described appropriate bargaining unit concerning rates of pay, wages, hours of work, and other terms and conditions of employment:

All production and maintenance employees, including drivers, employed by the Respondent at its facility in Carolina, Puerto Rico; excluding all office and clerical employees, guards and supervisors as defined in the Act.

(b) Threatening employees with plant closure and loss of jobs because of their union activities.

(c) Threatening to physically harm union officials.

(d) Disparaging union officials in the presence of employees.

(e) Transferring bargaining unit work to non-bargaining unit employees; subcontracting bargaining unit work, except as permitted under the stipulation between

the Respondent and the Union dated December 15, 2014; or making other changes to the rates of pay, wages, hours of work, and other terms and conditions of employment of the employees in the above bargaining unit without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the effects of this conduct, and without first bargaining with the Union to a good-faith impasse on an overall collective-bargaining agreement.

(f) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Upon request, bargain collectively in good faith with the Union as the exclusive collective-bargaining representative of the employees in the above-described bargaining unit concerning the wages, hours of work, and other terms and conditions of employment of the unit employees, and, if an understanding is reached, embody the understanding in a signed collective-bargaining agreement.

(b) Within 14 days after service by the Region, post at the Respondent's facility in Carolina, Puerto Rico, copies of the attached notice marked "Appendix A" in both English and Spanish. Copies of the notice, on forms provided by Region 12, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to its employees are customarily posted. In addition to physical posting of paper notices, the Respondent shall distribute notices electronically, by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Respondent in the unit at any time since June 1, 2018.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 12 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., September 25, 2019.

Lauren McFerran, Member

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT fail or refuse to bargain collectively in good faith with International Association of Machinists and Aerospace Workers, AFL-CIO (the Union) as the exclusive collective-bargaining representative of our employees in the below-described appropriate bargaining unit, concerning the employees' rates of pay, wages, hours of work, and other terms and conditions of employment:

All production and maintenance employees, including drivers, employed by us at our facility in Carolina, Puerto Rico; excluding all office and clerical employees, guards and supervisors as defined in the Act.

WE WILL NOT threaten you with plant closure or job loss because of your union activities.

WE WILL NOT threaten to physically harm union officials.

WE WILL NOT disparage union officials in the presence of employees.

WE WILL NOT transfer bargaining unit work to non-bargaining unit employees; subcontract bargaining unit work, except as permitted under the stipulation between us and the Union dated December 15, 2014; or make other changes to the rates of pay, wages, hours of work, and other terms and conditions of employment of our employees in the above bargaining unit without prior notice to the Union and without affording the Union an opportunity to bargain with us with respect to this conduct and the effects of this conduct, and without first bargaining with the Union to a good-faith impasse on an overall collective-bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights described above.

WE WILL, upon request, bargain collectively in good faith with the Union as the exclusive collective-bargaining representative of our employees in the above-described bargaining unit concerning the wages, hours of work, and other terms and conditions of employment of the unit employees, and, if an understanding is reached, we will embody the understanding in a signed agreement.

TEMSCO N.C., INC.

The Board's decision can be found at www.nlrb.gov/case/12-CA-227471 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

